

1897-030
Lee Co.

Chancery Causes: Emily J. Harber vs. Adm. of Joel Turner &c

Flanary, Daniels, Scott

CA-Debt
T-Property

To the Honorable W. T. Miller Judge of the
Circuit Court of Lee County.

Humbly complaining, shew unto your honor
your oratrix Emily J. Warner on behalf of
herself and all other creditors of Joel Turner
deceased. who shall come in and contribute to
the expense of this suit; that the said Joel Turner
departed this on or about the day of 18
and was in his lifetime, and at the time of
his death, justly and truly indebted unto your
oratrix in the principal of \$100. with an amount
of interest thereon upon and by virtue of his
the said Joel Turner bond sealed with his
seal, in writing bearing date the 27th day of Feb
1876 and executed to Robert Shelton, and by an
endorsement thereon by Andrew Johnson administrator
of Robert Shelton deceased sold and assigned on
the day of 1884 for a valuable consideration to
your oratrix, said bond bears interest on day
after, ^{the} date thereof, and said bond has been lost
by or misplaced by your oratrix, but she here
files a copy of the said bond, as near as she can
with an affidavit of its loss, Your oratrix
alleges that the said Joel Turner was in his
lifetime, and at the time of his death, possessed
of considerable personal estate, more than
sufficient to have satisfied and paid at his
his funeral expenses etc, and also, was

entitled and seized of 63 acres of real estate
situated in the county of Lee, That the said Joel
Turner being so seized and possessed departed
this life at or about the day of 188
intestate, leaving a widow, Jane Ostrin, who
has since married J. L. Hoxby, and he also left
six children to wit S. E. Turner, R. W. Turner
W. E. Turner, Eliza Turner, Jennie Turner
and Frank Turner the last named three are
infants under the age of 21 yrs. who are entitled
to such of his estate as may remain after the
payment of all debts, expenses of administration
&c. That due administration of the estate of the
said Joel Turner was duly granted by the
County Court of Lee County to S. H. Ewing Sheriff
of Lee County, who afterwards on the day of
188 died, and said estate was then committed
to R. D. Flanary Sheriff administrator de bonis non
That under and by virtue of said administration
the said R. D. Flanary hath become possessed
of the whole or the greater part of the said intestate's
personal estate and effects, and that his real
estate has ever since been in the possession
of Jane Ostrin and said intestate's children
that nothing has ever been paid unto Jane Ostrin
on her said debt, but the whole of said debt
together with the arrears of interest, is yet justly
due and owing unto her.

To the end therefore that Justice may be done
in the premises, Jam vatin prays that the said
R. D. Flanary late Sheriff Administrator de bonis re-
of Joel Turner deceased, J. E. Turner, R. W. Turner
W. E. Turner, Eliza Turner, Jennie Turner
and Frank Turner, be made parties defendant
to this bill and answer the same but not on
oath that being waived, that a guardian ad.
litem be appointed to defend for, Eliza Turner, Jennie
Turner and Frank Turner infants, that an account
may be taken by and under the decree of this
honorable Court, of the said debts so due to you
this as of said ^{all other debts with}
re owing by the said ^{the time of} ~~deceased~~ ^{at his death, and}
which still remain unpaid, And that an account
may also be taken of the said testator's personal estate
and effects, and that the personal estate and effects
may be applied in payment of his said debts, in a due
course of administration and in case said debts are then
not paid, that the said real estate may be sold for
that purpose, and that the money to arise from said
sale may be paid to Jam vatin, and the said
other creditors accordingly, And that Jam vatin
will grant such other further and general
relief as the case may require, and Jam
vatin will ever pray &c.

M. G. Edg. p. g.

10
Emily J. Harber Plff
vs Billie bly
R. D. Flanary et als.

1895 1st Sept rules bill
filed Spa 24d & D M
" 2nd Sept D M Couf'd
& cause set for hear
Nov 9 1895 Decree cont'd
March 11 1896 Decree cont'd
June " Cont'd
Nov " Cont'd
March 1897 Cont'd
June " Cont'd
Nov " Decree final
See order Book
No 6 Page 45

Plffs Costs
Clerk 12.28-
Tax 1.50
Shoff 9.00
Atty 15.00
G. A. L. 5.00
Cour. 20.00 Hyatt
Commissioners 9.00 Parlihan
Const 20
wits 1.00
Co clk 2.75
\$75.70

To the Honorable W. T. Miller Judge of the Circuit
Court of Lee County,

Humbly complaining your oratrix Emily J.
Hacker would respectfully represent and shew
unto your honor that to wit on the day
of 1895 your oratrix filed her bill in this
Honorable Court vs. R. D. Filanary admorsors
to settle up and partition the personal estate of
Joel Turner dec., which has been done, now
oratrix desires to file this her amended or supplemental
bill in addition to her former bill, your
oratrix here alleges that her said husband died
on the 6 day of 1887, ^{died} seized and possessed
of a tract of land lying in Lee County Va. containing
about 52 acres, bounded by the lands of John Gunn
and others, that her said husband departed this life
leaving your oratrix, J. E. Turner, R. W. Turner,
W. E. Turner, Eliza Turner, Jennie ^{David} ~~Turner~~, and
Frank Turner his heirs at law, that this said
Eliza Turner, Jennie David, Frank Turner
are infants under the age of 21 yrs - your oratrix
alleges that her said husband purchased the said
tract of land for the sum of \$400. of which sum
your oratrix paid the sum of \$100. of her own money
or proceeds arising from her own separate estate,
and she alleges that $\frac{1}{4}$ of said tract of land should
should be sold off and assigned to her, ^{in her right} and her
dower in the residue assigned to her.

and your oratrix further states, that said real estate is as she believes, susceptible of partition amongst the parties entitled thereto, but if not, then your oratrix desires the same sold, and the proceeds distributed amongst the parties in proportion to their respective interests therein. In tender consideration whereof, and for as much as your oratrix is remediless in the premises, save by the aid of a court of equity, your oratrix prays that the said J.E. Turner, R.W. Turner, W.E. Turner, Eliza Turner, Emma Daniel, and Frank Turner, be made parties defendant to this bill and answer the same but they need not answer on oath that being waived, that a proper quodammodo Litem be assigned the infant defendants, to defend their interests in this suit; that the said real estate be divided between the parties aforementioned entitled thereto, and your oratrix partition and deliver thereof allowed to her, and ^{case} in, said real estate be indivisible, that the same be exposed to sale, and the proceeds thereof be distributed amongst the parties entitled thereto, that proper process may issue, and that such other and further and general relief may be afforded, your oratrix as the nature of his case may require and your oratrix wishes to pray etc.

M. Y. Ely p.g.

Emily J. Barker Off

Amended
vs. E. E. Bill -

S. E. Immer et al -

1897 2nd May rules Spa
Et. D. & D. St.

" 1st June rules taken
the last Monday in
May D. St. Conf. Cause
set for hearing

Virginia: In the circuit Court of Lee County,
Emily J. Harlow

vs

} In Chancery

S. E. Turner et al

To the Hon. W. L. Miller, Judge of
said Court: The Separate Causes of
Eliza Turner, Juniah Daniel vs
Turner and Frank Turner by Wm. A.
Orr, Esq. their guardian ad litem to an
amended bill in Chancery filed in this
Court against the wards et al by Emily
J. Harlow.

Assuming your Respondents
say that they know of no defense that
they ought to make, but Courts of Chan-
cery being the peculiar guardians of the
rights and interests of Infants they
ask to place their interests in this cause
in the hands of your Honor. Having
assumed they pray to be hence dismissed
with their costs.

Eliza Turner,

Juniah Daniel.

Frank Turner.

By

Wm. A. Orr, Esq. Guardian ad litem.

Sworn to before me, this June 8th 1897.

M. G. Ely n. o.

Emily J. Harbor

vs } Ans. of D. Q. L.

S. C. Turner et al

Filed June the 8th 1897

A. B. Munsey Clerk

~~5~~ 500

To the Hon. W. J. Miller Judge of the Circuit Court
of Lee County,

The answer of W. E. Turner, Eliza Turner
Jemima Turner and Frank Turner by James
W. Orr their Guardian ad Litem to a bill
filed in this honorable court by Emily J.
Harber vs R. D. Flanary Adam et al. These
respondents say that they are of tender years
and are deprived of no defense that they should
make against the object of plaintiffs bill
but they being advised that courts of equity are
the peculiar guardians of infants, they beg to place
their interests in your honorable hands, and now
having answered they pray to be hence dismissed
with their reasonable costs etc

W. E. Turner,

Eliza Turner,

Jemima Turner,

Frank Turner,

By James W. Orr

Guardian ad litem

Emily J. Barber
as agent of
No. 1 Guardian Life

Robt. Filaway admr & Co

Filed 1st Sept 1885

ATB Murray Clerk

Emily J. Harber Plff.
against. ~~EE~~ In Chancery —
P.D. H. & an. et al. Defs

This cause came on this day to be heard upon the papers formerly read in the cause, and the report of partition of Commissioners C. C. Eliot, P. D. Himes and C. D. Smith, and was argued by counsel.

On consideration of which the court doth approve and confirm said report, and it is further ordered, and decreed that the plaintiff and defendants who are the heirs at law of Joel Turnure, do pay the costs of this suit in proportion to their interest in said land, to be taxed by the clerk, and for which execution may issue in favor of the officers of the court, and the parties in interest may withdraw said report of partition from said cause to be recorded in the County Court clerk's office, the cost of recording the same to be taxed with the costs of this suit, and nothing further remaining to be done the cause is stricken from the docket.

Emily J. Harber Plff

vs E. E. Deane Final.

R. P. Flanagan et als -

Ex. 6 to. 6. b. 45.

Enter this

Nov. 8th, 1897

Emly J. Harber. Plff.

Vs. In Chancery.

S.E. Turner. Et als. Defts

This cause came on this day to be heard upon the papers formerly read in the cause, the amended bill of the plaintiff, process duly executed on the adult defendants the answer of the infant defendants by their Guardian ad Litem Wm. A. Orr Sr. general replication thereto and was argued by counsel.

On consideration of which, the amended bill is taken for confessed as to the adult defendants, they ~~will~~ failing to appear, plead, answer and demur, the court doth adjudge order and decree, that C. C. Elliott, C. D. Smith, and P. D. Kinser be appointed commissioners, who being first duly sworn, shall well and truly allot and assign to the plaintiff Emly J. Harber one-fourth of the tract of land in the bill described to be held by her in feesimple, they will also lay off and assign to Emly J. Harber, widow of Joel Turner dec'd by metes and bounds, one full and equal third part,

~~in severalty and hold to her, her heirs and assigns forever~~
in severalty

in quality and quantity of the residue of said tract whereof the said Joel Turner died seized and possessed

~~seized~~ to hold, as and for her dower, her natural life And that the same commissioners, do make equal and fair partition in severalty of the residue of the

said tract of land, that is the three-fourths of said tract after the first one fourth is laid off

to Emly J. Harber, between the defendants S. E. Turner

R. W. Turner W. E. Turner Eliza Turner, Jemima Daniel and

Frank Turner, who are children and heirs of the said

Joel Turner dec'd. And the commissioners are directed -

Emily J. Harner
no. 46 Deere -
S. E. Turner. etc.

C. O. B. No 6 p. 16 + 17

Enter this

W. J. M.

Dec 15th 1917

To report this proceedings in fullness
of this deere to the court, in order for a final
deere. And the court is continued,

Emily J. Barker Plff.
vs. E. J. L. Cheney —
R. D. Flinnay & Am et al's Deft

This cause came on this day to be heard
upon the papers formerly read in the cause
the report of Commissioner J. A. G. Hyatt and
motion of Plaintiff to file an amended bill
and was argued by counsel,
On consideration of which the court doth
approve, and confirm said report, and
leave is granted the Plaintiff to file her amended
bill and the same is remanded to rules, then
to motion and the cause is continued

Emily J. Norton Mth

N. $\Sigma \Sigma$ Deane

R. D. Flanagan Chas

Eu. C. O. B. p. 563.

(3)

Enter This

March 9th 1897

Emily J. Horner Deft -
vs. Lee Chancery -
R. D. Flanagan adm et al Deft -

This cause came on this day to be heard
upon the papers formerly read in the cause and
the report of special commissioner J. A. Hyatt
and exceptions thereto and was argued by counsel,

On consideration of which, the court doth
overrule said exception, And doth approve and
confirm said report, ^{and doth approve said report but for reasons appearing} it is the order
and decree that ~~Emily J. Horner, S. E. Turner,
A. W. Turner, W. E. Turner, & Maria Turner, Jr. in
Turner and Turner, heirs of the R. D. Flanagan
administrator of the estate of John
Turner deceased the sum of \$1180 with
interest thereon from the 8th day of May 1888
to be paid out the plaintiff's estate in Virginia
and the cause is to be heard from the
clock,~~ J. A. Hyatt, commissioner
make a further report, in which he will report
to whom the fund \$1180 in his former report, is
due, and in what proportion, he will give
all parties in interest notice and report to next
term of the court and the cause is continued.

Emily J. Barker Off
W. E. Beebe Fund
M. D. Filmer, Secy. 1896

O. B. P. 387

(2)

Enter this

11.3.87

March 9th 1896

Emily J. Warner Plff

vs

Decree No. 1

R. D. Fleury adm et al Defts

This cause came on this day to be heard to be heard upon the Bill of complainant, the answer of W. E. Turner, Elvira Turner, Jennie Turner Ed Frank Turner, in favor of James W. Orr, their guardian ad litem and general replication thereto and was argued by counsel, On consideration of which, and it appearing that process had been duly executed on the adult defendants, and they failing to appear plead, answer or demur, the bill is taken as to them for confessed, it is therefore adjudged, ordered and decreed that ^{J. A. Hyatt} ~~H. C. Jackson~~ who is hereby appointed a special Commissioner for the purpose, do ascertain and report the debts due and owing by the said Joel Turner at his death and unpaid, the amounts, to whom due, and their priorities, he will also take and settle the administrators account of the personal estate of said deceased Joel Turner, And ^{ascertain} whether or not said personal estate is sufficient to pay the ^{unpaid} indebtedness of said estate, and if not what lands the said Joel Turner owned at his death, ^{and its rental value,} but before taking said account he will give all the parties in interest or their counsel due notice for at least 10 days of the time and place of his settling, he will report his action to the next term of this Court and the Cause is continued,

Emily J. Harbor
No. 11 Dec. No. 1-
R. D. Flanagan adm. et al.

O.B. Page. 265

Enter this

Nov. 12. th 1895

Virginia

at a circuit Court continued and
held for Lee County at the Court-house
thereof on Tuesday Nov 12th 1895-

Emily J. Harber - Plff

VS

R. D. Flanary admr. et al Deft

} in Chancery

This Cause came on this day to be heard
upon the bill of the Complainant the answer
W. C. Turner. Elvira Turner. Jennie Turner
and Frank Turner infants by James W. Orr
Their Guardian Ad Litem and general
replication thereto. and was argued by
counsel. On consideration of which, and
it appearing that process had been duly
executed on the adult defendants, and
the failing to appear plead answer or de-
mur the bill is taken as to them for
confessed it is therefore adjudged ordered
and decreed that J. A. G. Hyatt who is
hereby appointed a Special Commissioner
for the purpose do ascertain and report
the debts due and owing by the said Joel
Turner at his death unpaid the amounts
to whom due, and their priorities, he will
also take and settle the administration
account of the personal estate of said
decedent Joel Turner and ascertain

whether or not said personal estate is sufficient to pay the unpaid indebtedness of said estate, and if not what lands the said Joel Turner owned at his death, and its rental value. But before taking said account he will give all the parties in interest or their Counsel due notice for at least ten days of the time and place of his sitting he will report his action to the next term of this court. And the Cause is Continued.

A Copy Teste A B Muncy Clerk

Emily J. Harber

Copy of Decree

A D Flannery admr. et al

Exhibit 10/12
 by testimony of
 the estate of
 the said Joel Turner
 to the Court
 11/2/12

Copy for J. A. G. Hyatt

75

Virginia

At a circuit Court Continued and
held for Lee County at the Court-house
thereof on Friday March 10th 189th

Emily J. Harber

Plaintiff

vs

R. D. Flanary Admr et al Defs

In Chy

This Cause came on this day
to be heard, upon the papers formerly
read in the Cause, and the report of spe-
cial Commissioner J. A. G. Hyatt and
exceptions thereto, and was argued by
Counsel. On consideration of which
the Court doth overrule said exception
and doth approve and confirm said
report, and disallows said Claim sued
on but for reasons appearing to the
Court it is ordered and decreed that
J. A. G. Hyatt Comr make a further re-
port, in which he will report to
whom the fund \$11.80 in his former
report is due, and in what propor-
tion, he will give all parties in
interest notice, and to next term of
the Court. And the Cause is Continued

A Copy

Lester A. B. Mursey Clerk

Emily J. Barber
vs. Copy of Decree
R. D. Flannery admr. et al.

February 8th 1897
Take this as given

Copy for
J. A. G. Hyatt

Virginia

At a Circuit Court Continued and
held for Lee County at the Court-house
thereof on Tuesday the 15th day of June 1897

Emily J. Harber

Plff

vs

S. E. Turner et al

Defl

In Chancery

This Cause came on this day to be
heard upon the ~~papers~~ formerly read
in the Cause, the amended bill of the
Plaintiff, process duly executed on the
~~adult defendants~~ and the answer of
of the infants by their Guardian ad litem
Wm A Orr Sr. general replication thereto
and was argued by Counsel. On Con-
sideration of which the amended bill
is taken for Confessed as to the adult
defendants, they failing to appear, plead,
answer and demur. The Court doth
adjudge, order, and decree that C. C.
Elliott, C. D. Smith and P. D. Kinser
be appointed Commissioners who
being first duly sworn, shall well
and truly allot and assign to the
Plaintiff, Emily J. Harber one fourth
of the tract of land in the bill de-
scribed to be held by her in fee

Simple, they ^{will} also lay off and assign
to Emily J. Harber widow of Joel Turner
decd by metes and bounds. One
full and equal third part in rental
Value in quality and quantity of the
residue of said tract whereof the
said Joel Turner died seized and
possessed, to hold as for her dower
for her natural life. And that the
Same Commissioners, do make e-
qual and fair partition in sever-
alty of the residue of the said tract
of land, that is, the three fourths of
said tract the one fourth is laid
off to Emily J. Harber, between the
defendants B. E. Turner. R. W. Turner,
W. E. Turner, Eliza Turner, Jemima
Daniel, and Frank Turner who are
Children and heirs of the said Joel
Turner deceased. And the Commis-
sioners are directed to report their
proceedings in pursuance of this
decree to the Court, in order for a
final decree. And the Cause is con-
tinued.

A Copy

Lester A. B. Munsey Clerk

Commissioners Office
Jonesville Va Feb 14/89

Emily J. Harber
vs

R. D. Flunary Administrator

In Reply
to

Pursuant to the notice
herin filed - The Plaintiff
appeared by her attorney
W. B. Ely and Deft S. E.
Turner and his attorney
E. W. R. Ewing appeared for
Defendants. J. M. Orr Guardian ad litem.

The Plaintiff, offers
as evidence of the debt herein
sought to be collected, the
Bill and proceedings in this
cause and especially the
affidavit of last note herin
filed marked "A".

These are objectionable as ev-
idence, because the bill surely can-
not seriously be inserted on as evi-
dence, and the affidavit herin filed
is especially objectionable because it
is no evidence of debt, but only
a basis for proceeding and is a
part of the bill, and has only the

some effect, for example, that
an affidavit for an attachment
would have. Then for the de-
fendants we dare to raise the
question of statute of limitations,
and earnestly insist that the
note on which this bill is at-
tempted to be based is barred, and
the affidavit is too indefinite, the
plaintiff must prove that his
note is within the statute
of limitations. Also the defend-
ants insist that ~~on~~ full pay-
ment of all debts claimed to be
due from the said estate has been

E. W. R. Ewing for
Defts -

Andy Scott a witness of lawful age being
introduced by Plaintiff, duly sworn, deposes
and saith;

q. Please state your age, residence, occupation and
relation to Emily J. Barber?

a. I am 61 years old, reside near
Beech Spring Lee Co. Va. and in
the neighborhood of the Plaintiff
in this cause - She is my sister in
law, (I married her sister) I am

a farmer by occupation.

ques. Are you acquainted with the lands of which Joel Turner died seized and possessed, if so how many acres does it contain?

Ans. I am acquainted with said land, I think there was originally 60 acres in the tract Joel Turner purchased, he sold off twelve acres which would leave him owning about 48 acres at the time of his death.

ques. What would be a fair cash rental value of that land per year subject to the widow's dower?

Ans. I think 1 dollar or $1\frac{1}{2}$ dollars per acre would be a reasonably fair annual rental value.

ques. Were you acquainted with Robert Shelton in his life time and when did he die?

Ans. I was well acquainted with Robert Shelton, he died in the year 1879.

ques. Do you know anything of a note held by Robert Shelton, at the time of his death against Joel Turner, and if so, please state the amount of it, and what was done with it?

Objectionable for reasons to be assigned.

Ans

I know that Robert Shelton held a note first against Abe. Shelton his son for \$100.00, after Abe sold his land to Joel Turner, said Joel Turner was to settle this note for him. (Abe. Shelton) with Robert Shelton.

When the heirs of Robert Shelton met to adjust their Estate matters and divide their lands, my wife and Emily J. Harker the Plff in this cause being two of said heirs Emily J. Harker then Emily J. Turner wife of Joel Turner agreed to relinquish to the other seven heirs her interest in the personal and real Estate of said Robert Shelton died, for this 100 dollar note against her husband, which I was informed at that time amounted to \$130.00, this divide was made in the Year 1879.

So much of the above ans. as speaks of evidence from hearsay is objectionable.

A. E. for
Deft.

ques. At the time Emily J. ~~Harber~~ ^{or Joel Turner} Turner now Emily J. Harber, took the said \$100. note as her interest in the Shelton estate, was she a married woman or single?

Ans. She was a married woman.

ques. How long did she remain married with her husband died?

Ans. Until about the year 1865.

ques. Did Joel Turner ever pay the said note to Emily J. Turner, to your knowledge?

Ans. If he did I don't know it.

ques. Have you had any conversation with S. E. Turner about this note, and if so, did he or not admit that the same was due Emily J. Harber?

Ans. I have had a conversation with said S. E. Turner about this note - during that conversation he did not deny his father owing the note, but inquired if it had not run out of date.

This is objectionable because no statement made by said Turner can effect the debtor. O. & E.

ques. Please state, if you know, whether or not this claim of Emily J. Harber against Joel Turner is a just claim?

Ans. It was a just claim, and so considered

among us all at the time of our divide, and Joel Turner admitted it to be just and was well pleased that it was settled in the way that it was and boasted that he had done well in getting it settled in the way it was, stating they had got a good share.

+ Examined.

Ques. 1. Did you ever see this note here in question?

Ans. I never did.

Ques. 2. When was the last time you heard Mr. ~~Shetton~~^{Turner} admit that this was a just debt?

Ans. Just after Robert Shetton died Mr. Joel Turner seemed to be in trouble about the note, and about the time of our divide in 1879, is the last time that I ^{ma} remember hearing him speak of its being a just debt.

Ques. 3. You say you had a conversation with Mr. S. E. Turner, with reference to some note, did he not say something about some payment being made?

Ans-
witness
claim 50¢

He did not.


And further this witness saith not
J. L. Scott

Virginia Lee Co. to wit

and foregoing statement
and deposition were submitted
before me subscribed and sworn
to by the witnesses before me on
the 14th Feb. 1876.

J. L. Scott

(J. L. Scott)

Emily A. Barker
vs  Sep.

Ed. J. Barker, Adm'r.

~

With claim 50¢

Virginia Lee County to wit: -

I C. D. Smith a Justice of the Peace for
the County and State aforesaid do certify that
Emily J. Barker personally appeared before me
and made oath that the note or bond
sued on by her in the Circuit Court of Lee County
in the Chancery Cause of Emily J. Barker vs,
R. D. Flanary Adm'r. et al., has been ~~lost~~ or
misplaced and can not be found, that said note
bore date ~~of~~ the year 1876 ~~or 77~~ was an instrument
under seal executed by Joel Turner to Robert Shelton
and due one day after date, that she paid ~~and~~
to the Administrator of Robert Shelton Dec- a
valuable consideration, out of her own separate
estate, for said note or bond about the year
1884, and that the same is just, due her and
unpaid, Given under my hand this the
8th day of Oct 1895.

C. D. Smith, J. P.

"A"

Emily J. Barber.

W. E. Barber of Boston

Dr. W. E. Barber adm. 1864

Virginia,

Lee County to wit:

This day B. E. Turner, personally appeared before me, E. N. R. Ewing, a Notary Public in and for the county aforesaid and made oath that he has examined the papers in the case of ~~Emily~~ ^{Emily} J. Horber vs. R. D. Flourey et al., and further made oath that the note attempted to be described in the affidavit of Emily J. Horber before L. D. Smith, J. P. ^{or most of it} was duly paid, by his father in his life time, and he further made oath ^{that} the date as given by her is ~~incorrect~~, that the date is so far back that were it correctly given, the note properly set up and ^{even} found to be a bond, that it would be barred by statute of limitations; and he desires to file this before Commr. Hyatt for all purposes.

Given under my hand this Feb. 14, 1876.

E. N. R. Ewing, N.P.

J. E. Turner
vs 3 Affidavit

Emily J. Harber
filed before me as
Comm. Feby, 14th 1896
J. A. Elgatt
Comm

The filing of this affidavit is
objected to because, illegal, improper
and because it comes too late, there
being no appearance ever entered
by deft. J. E. Turner, and the bill
having been taken for confessed
as to him, and any plea of
statute of limitation and
payment can not be plead
before the commissioners -
for the first time. W. J. Elgatt
for aff.

Commissioner & Clerk
of the Court, July 11th 1896

Respectfully,
Yours,
J. H. D.

Page 23

San Francisco

J. H. D. Commissioner & Clerk

In the Hon. Jm. J. Miller, Judge
of the County of San Francisco.

In obedience to the requirements
of a decree entered in the above styled
cause Nov. 12th 1895, I posted a notice
on the front door of the County Court
the 20th January 1896, showing that I
would on the 14th Feb. 1896 at the
Clerk's office of the County Court in the
Town of San Francisco proceed to
ascertain and audit all debts owing
owing by Joel Sumner at his
death. And at the same time I
called the attention of J. J. Miller, the
Hon. Judge, and also notified the J. J.
Sumner that I would proceed
on said day and place to perform
the duties assigned me in said
decree. On said day and place
as shown by deposition & herewith
filed, M. C. Elworthy for J. J. Sumner
J. J. Sumner and his attorneys and
James M. O'Connell guardian ad litem for
the infant defendants were present

No other persons or creditors appeared
and from the best information that we
could obtain, all the debts owing by
the decedent, Joel Turner at the time
of his death had been settled by W. H.
Fleming & Son, and as such Administration
of the Estate of said Joel Turner said,
except the one in favor of the
Plaintiff in this suit sought to
be established. It will be observed
that the Will, by her attorney, as
shown by statement made in depo-
sitions taken at the time of taking
my account in this cause See Depo-
"X" That the others as evidence of
the debt in this suit sought to be collected

The Will & proceedings in this cause
were filed in the affidavit of last
state herein filed marked "A"

It will also be noticed that this
evidence to establish the said claims
were objected to by said Attorney E. H.
W. Jones & Son and were filed as
affidavit made by last of E. Turner

The Plaintiff then introduced
the witness J. H. Scott who had
been summoned for examination, and
proves by said witness that Joel

conceded at the time of his death about
48 acres of land, the present holder
of the of which was known as to
one and a half hundred acres.

It is shown by the evidence of the
witnesses that the Plaintiff about the
1877, who was then the owner of the land
brought a note in this matter, saying against
Jas. Lumber of \$100.00 and also a note of \$100.00
accumulated interest. His evidence
was shown that Jas. Lumber & Shotton
had a note against him for the \$100.00
of \$100.00 that said the Shotton said
the lands above mentioned to said
Jas. Lumber who assumed to
pay to Robert Shotton this note of
\$100.00 now this is the note or claim
of Jas. Lumber is properly admitted, which
is having sought to be paid against
the estate of Jas. Lumber, whereas the
the Plaintiff of last note, saying that
this is the last note to have existed
against Jas. Lumber.

After a careful investigation of the
facts & proceedings, the Plaintiff of last
note affidavit of Robert Shotton & Lumber
rehabilitated. Discretion thereto and
the new sole brief of said Atty.
Your Commissioner has

that there is not sufficient evidence
offered to establish this fact and
its interest as a debt against the
said Joel Sumner Est.

Should the position taken by
the Plaintiff otherwise, that the
note of last note against said
Joel Sumner having been paid and the
Bill being taken is confessed by
the said debt, fully established
Duff's claim, as advanced by the
Court, she is entitled to receive
100 dollars.

There being further evidence
in this case, that it is
evident from the evidence that the
Plaintiff exchanged her interest in
her father's personal and real estate,
for this claim against her husband
Joel Sumner, and no doubt assisted
her said husband to the extent of \$1200
in buying her the land, and so
relieved her from the burden, but
whether or not the transaction
constituted her interest to this
extent or not, the Court is not
advised, and will not undertake
to decide this question.

On the 10th of Jan. 22nd 1888
the order of D. H. Bishop & Co.
of Astoria to effect said loan was
issued and as I am a co-owner of
said settlement, I think that
I am entitled to his account in
such form, which I herewith
file marked "A" as will be
seen by said statement I have
been with \$166.15 amount of said
loan bill and give him credit
for monies from 1st 13 inclusive
resulting in showing the sum
of \$11.51 in his hands and credited
for as of July 5th 1887. At the
same time there were turned
to me two notes against said
Bishop the 1st in the sum of \$11.10
the order of said Bishop, executed by me
to S. H. Young as cash loan, on the 8th day of
July 1886 one for \$11.10 the other
for \$2.25. It is to be noted that these
notes to S. H. Bishop were made as S. H.
of D. H. Bishop & Co. as partners, and
that the said Bishop retained said
notes to me and that are now in
my possession - when these notes
are collected - the amount of said loan will be

note that I have

should be understood that the
established against the State of
the State, the amount of the
which to account for 11.81, and
- 1881, will be distributed
distributable to the individual and for
of said State. I have done so.

Respectfully Submitted,

A. J. H. H.

Wm. H.

It is now 12 o'clock, night is over and
morning - hence all will be over.
I have Hoby 20/1886.

A. J. H. H.

Filed February 20th 1896
A. B. Munsey Clerk

Yours report is Hoped to receive the Commissioner's
to speedily allow the claims of P.H.A.

Jan 1880 1/1000
 1880 .00
 1881 .00

Received of M^r. George Sheriff Treas^r & Sec^y.
 of the Estate of Isch. Luray Dec^d
 To the Executors of said Estate Dr

1851

Feb^y 8

To the amount of the bill of exchange

By C^d. commission on said bill 10.00

By this sum paid for right of said bill 10.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

" " " " 1.00

By this sum paid for

11 51 1/2 166, 15

J. W. Loomis & Son
are the Administrators of
the Estate of Joel Loomis
decd

Statement of his assets

1. 1
2. 2

- Aug 16th / 1888



State of New York
In SENATE,
January 1st 1844

REPORT
OF THE
COMMISSIONERS OF THE LAND OFFICE
IN ANSWER TO A RESOLUTION PASSED BY THE SENATE
JANUARY 1ST 1844

ALBANY:
PUBLISHED BY
J. B. LEECH, AT THE
CLERK'S OFFICE, IN THE SENATE CHAMBER.
1844

19 Apr 1887

Recd of S H Quinn as to Adm of
Gold Turner Est see the within. Amount
15#

James W. Quinn

Wm. J. McQuinn
Gen. S. S. Quinn

Recd of

\$10.00

For Quinn

(1)

Receipt of S. H. Ewing Deputy Sheriff
and Administrator of the Estate of
the deceased - John H. Ewing for services
rendered as such - said estate -

April 17th 1887
Arthur C. Ewing

W. D. L. 1881

Sept 1

\$ 1.00

Sept 2

1881

Recd of J. H. Burdick A. B. M. x amount of \$100
Turners East all the sum of one dollar
for donating as one of the \$100 of said sum.
Sept. 1887

Wm. D. Morgan

J. E. Morgan

Rec'd to

1.00

4/4/2

83/

Account of 1st County 30th June
of 1814. Turners. Costly of the sum of one
pound for doing it. Appraiser of the estate
this 17th day of April 1815
1

H. C. C. C.

H. E. Bond

Receipt

\$1.00

Alfred

11

Bac recd July 11th 86.
\$39.84

\$54.98

Jan 2nd, 1884.

One day after date I promise to pay to the order of B. M. Morgan
Fifty Four and $\frac{98}{100}$ Dollars, for value received, and I hereby



waive the benefit of my Homestead and personal property
exemptions as to this debt. Witness my hand and seal.

No. 10

(SEAL.)

LEE SENTINEL PRINT.

J. Earl Green (SEAL)

Sept 15 1884
B. M. Morgan

March 10 1886

Recd from Saml H.
admir y^t J^gee Junior Recd.
Owing thirty nine Dollars
and eighty seven cts
the amt in full
of the within note

B M Morgan

(2)

Mr. 10. 1886

\$39.87

Recd

Recd from Saml. H Ewing Admr. of
Joel Turner Deat. Fifty Two Dollars and Sixty three
cts. Forty nine Dollars and Six cts. of which is
placed as a cr. on his acct to close same and
The remainder (\$2.57) is placed as a cr. on a
note I hold against him. This 10th day of March
1886

David R. Smith
By B. M. Morgan

E. W. Smith

Receipt

\$52.63

Nov. 17th 1886

67

Only one receipt

Joel Farmer

Dr. John B. Callahan

1883
November

20

To amount of bill on a

wagon after paying one Gray mare \$10.00

paid in full
\$10.00
Oct 10, 1887

179 April 1792

Recd of J. H. C. 1000 l. & 50 s. of Gold
L. 1000 l. 1000 l. 1000 l. 1000 l. 1000 l.
1000 l. 1000 l. 1000 l. 1000 l. 1000 l.

Recd

The 1st of June
1864. To the Hon. Secy of the
War Dept. Washington

Dear Sir, I have the honor to acknowledge the receipt of your letter of the 28th inst. in relation to the matter of the 1st of June. I have the honor to inform you that the same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,
Your obedient servant,
J. M. Smith

17th Nov 1887

Recd of J. H. Green for 5 shares in gold
miner for 100 shares for 100

James M. Davis

Geo. M. Davis
Geo. M. Davis

\$100

\$100

Nov. 9, 1887

My dear friend I am so glad
to hear of your recovery. I hope
you will be able to go to the
house in the country. I have

been thinking of writing to you
for some time but have been so
busy that I could not find time.
I am well and hope you are the same.

Yours truly
John Smith

19 Apr 1887

Rec of S H Henry Esq. Adm of Poll
Turner Esqat Sec D. H. on The Union Claim
James McDaniel

for 11th of
for 11th of

Receipt

2.57

Apr 19 1887

(77)

1885 The Estate of Joel Turner
 April 20 To S. S. Turner
 Cash loaned \$ 5.00
 Bal. Due \$ 1.75
 Bal due Apr. 20 1885 \$ 6.25
 Interest to \$.75
 \$ 8.00

1
 Due to before me to be paid
 & repaid by S. S. Turner
 April 10 1887. J. G. [unclear]

Rec on the within Claim of St. Eurydo
 V. Adams & Co. Turners Est Dec 1887
 And Seven Dollars & Apr 1887

V. C. Turner.

27 1/2
 1 1/2
 28

27 1/2
 1 1/2
 28

11

St. Eurydo
 Adams & Co.
 Turners Est
 Dec 1887
 Apr 1887

Receipts and Credits

Mr.
1885.

District No.

To M. B. WYGAL, Treasurer of Lee County,

Dr.

State Tax, 30 cts. on the \$100.	County Levy, 25 cts. on the \$100.	State School Tax, 10 cts. on the \$100.	County School Tax, 10 cts. on the \$100.	Dis't. School Tax, 10 cts. on the \$100.	Total Amt. of Taxes.
--	--	---	--	--	-------------------------

..... / TRACTS.

To 6 - acres land value

Property, income, etc.

Capitation Tax,

State School Tax,

County School Tax,

District School Tax,

Total,

RECEIVED PAYMENT.

M. B. Wygal COUNTY TREASURER

Received the amount
of the within Do+ of
L H Ewing administrator
of Joel Turner Deced^d
This Sept 3 1887
M B. Maggal Treas^r
Rechts of Lu county
\$1.73

Jan. 1886

Sept 3 1887

(11)

[illegible]

[Faint handwritten signature]

112

113

114

21

Dear Mr. [illegible]

I have the honor to acknowledge the receipt of your letter of the 19th inst.

in relation to the [illegible] of the [illegible] of the [illegible]

and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

I am, Sir, very respectfully,
Your obedient servant,

[illegible signature]

[illegible text]

[illegible text]

6-1-1914

(13)

We the undersigned appraisers of the Estate of
Jed. Turner, deceased, after being duly sworn,
proceeded to appraise the same as follows, to wit:-

One horse	\$ 70.00
One wagon	55.00
One cow	15.00
One calf	6.00
Three sheep	11.00
Three Sheep	11.50
One pair of gears75
One pair of stretchers25
Two plows25
One wagon	12.50
Amount	\$ 168.25

Given under our hands,
this the 8th day of February, 1886.

Arthur C. Ely.	} appraisers.
H. E. Edds	
Gas. D. Morgan	

Sunday, June
 17th 1880
 Arrived in
 1880

Feb. 1872.

Field No. 67116.

John Thompson

June 11, 1912
35.00

July 1, 1912
35.00

Aug 1, 1912
15.00

Sept 1, 1912
91.50

Oct 1, 1912
at 100.00

Nov 1, 1912
at 100.00
for 100.00

Dec 1, 1912
at 100.00
for 100.00

(Faint handwritten notes)

1. 7
2. 8
3. 2. 6
1. 8
2. 1

e. v. P

11. 7

7. 1

2

12.7.

1661

1212

7

5.

Lee Circuit Court

Commissioners Office
Febry 8th 1897.

Emily J. Harber
versus.

\$ 13
3 In C.
3

R. D. Flanagan et al. Defts

To the Hon. W. J. Miller Judge of
the Circuit Court for Lee County.

In obedience to the requirements
of a decree entered in the above styled
cause on the 10th day of March 1896,
I gave the parties in interest
and their attorneys notice, that
I would, on this the 8th day of
February 1897 at the Law Office
of Orr S. Blankenship in the
Town of Jonesville Va. proceed
to determine to whom and in
what proportions the fund of
\$17.80 shown in my former report
in this cause, to be unaccounted
for in the hands of S. H. Ewing
late deputy Sheriff of Lee County
and as such Administrator of
the Estate of John A. Turner
deceased.

11.81
6
7086
10
\$7.0860

Respectfully report that this
sum is shown to be unaccounted for by the
said S. H. Ewing as such Admr. \$11.81
Dut thereon from Febry 8th 1887 to Febry 8th 1897. 7.08
Total unaccounted for " " \$18.89

Of this sum Emily J. Harber nee
Emily J. Turner widow of Joel A. Turner
is entitled to $\frac{1}{3}$ = \$6.29 $\frac{2}{3}$

And the heirs of said Joel

A. Turner is entitled to $\frac{2}{3}$ = 12.59 $\frac{1}{3}$

Equals amount in hand. \$18.89

In this connection it is
proper for me to report, that
Capt. E. S. Bishop was the successor
of said S. H. Ewing as Admr. of said
Joel A. Turner, after the death
of said Ewing all his unfinished
business went into the hands of
said Bishop among the rest
two notes were given him on
Emily Turner one for \$2.25
the other for \$11.10 executed
by said Emily on the 8th day of
Febry 1886 to said S. H. Ewing
Admr. of Joel A. Turner and
and due and payable on the
8th day of Febry 1887.

Amount of notes 2.25 + 11.10 = \$13.35

Interest thereon to Febry 8th 1897 - 8.01

Total due on said notes " " \$21.36

These notes were handed me by
Capt. E. S. Bishop at the time of

13.35
6
8010
10
\$8011.00

the stating or taking the account
heretofore by me in this cause
with the statement by him
that the said Emily Charles
refused to pay them.

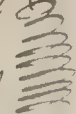
I suppose justice would say
that she is entitled to a credit
on these notes of \$6.27⁰⁰ as of
Feb^y 8th 1897, on account of
the amount due her from
said Anna. I hereto
attach these notes marked
A & B. For the inspection
and disposition of your
Honor. And now having
performed the duty assigned,
your Court's humble prayer
is, that he may hence
be dismissed with his
reasonable costs.

Respectfully submitted

J. A. L. Hyatt

Attorney

Court fee \$5.00

Emily J. Harber
vs  Court Reporters
2^d Report
For L. L. Luman et al

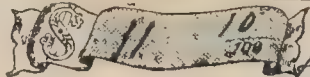
Filed - Feb 9th 1897
A. B. Munsey clerk

Court fee \$5.00



Twelve months after date we promise and bind ourselves
to pay S. H. Ewing Adm'r of said Homestead Two
DOLLARS and Twenty five Cents for value received, and hereby waive the
benefit of our Homestead Exemption as to this debt. Witness our hand and seal
this 8th day of July 1886 Emily Turner, [SEAL.]
[SEAL.]

Comité de
Nata.



to pay S H Ewing Adams & Co Elron Twelve months after date 2 promise and bind myself

DOLLARS and 10 Cents for value received, and I hereby waive the benefit of my Homestead Exemption as to this debt. Witness my hand and seal

this 8th day of July 188 6. Emily A. Ewing, [SEAL.]
mark, [SEAL.]

J. M. Ewing

Summer Notes.

Emily J. Warner
vs. ^{Ex} ~~Ex~~ In Chancery -
R. D. Flanary admors

The object of this suit is to bring about a settlement of the Administrator's account with the estate of Joel Turner deceased, and to collect the sum of \$100. due by bond from Joel Turner dec. to Emily J. Warner, formerly the wife of Joel Turner; which has been lost or mislaid as is alleged by plaintiff in her bill.

The suit matured at 2nd. Sept term 1895 after process had been duly served upon all the defendants and at the Nov. term of the Circuit Court, 1895, none of the defendants appearing to answer, the bill was taken for confessed, (See the order in the case) and cause referred to J. A. G. Hyatt Commissioner to make settlement of account etc, ~~And by your Court etc~~ before said Commissioner Plaintiff offered as proof of her claim against the estate the fact that the bill had been taken for confessed, calling his attention to the bill and proceedings and affidavit of lost bond or note) as no answer had been filed by any of the defendants, setting up any matter, in the way of plea or otherwise And in addition to that plaintiff proved by witness A. J. Scott that the amount of the debt was just, due and unpaid, that Plff. came in to the possession of said note by taking it as her interest in her Father's estate,

One of the defendants S. E. Turner appeared before the Commission and filed an affidavit attempting to set up statute of limitation, and part payment but offered no evidence to support either, Now let us see if the plaintiff in the first place proved her claim against Joel Turner, I maintain that she did; what is the effect of a bill being taken for confessed, "Where a bill has properly been taken for confessed, there need be no further proof of any matters ~~stated~~ positively and distinctly alleged therein, Nor does the rule so frequently quoted by courts that 'he who alleges fraud must prove it,' constitute an exception to the principle stated, And where the defendant has had a fair opportunity and makes no answer, the rules of the forum, as well as the conclusions of common sense, declare that the allegations of the bill are true, and that he has no defense to make, Confession is proof of the most satisfactory sort, Va. Law Register Nov. Page 346, Price vs. Thorne 20 Gratt, 515-522. Welsh vs. Solenberger, 85 Va. 441-443.

The witness Scott also stated that he had heard the defendant S. E. Turner, say that the claim was just,

As to the plea of statute of limitation, the Off-

states in her affidavit that it was dated some time in the year 1876 - as near as she can remember. The witnesses Seattle state that the note in 1879 amounted to \$130. That would seem to date it in the year 1874, The evidence of Seattle bears out that presumption, Now are we within the statute, I claim that we are, It is proved that she came in to the possession of the claim in 1879, that she was a married woman at the time and remained so till 1885, when her husband died. During that time we contend that the statute was suspended. The married woman's act, of 1877-8 does not give the married woman the right to sue and be sued as a female sole, unless her husband joins with her, And in this case she could not sue her husband without his consent to join with her, See Burke's separate estates Page 72-76, And case there cited, The lapse of time is easily accounted for in this case owing to the relation of the parties, See -

Baker vs. Morris Admr. 18 Leigh P. 284, 1 Barton
statute not properly pleaded -
Chancery Practice P. 83-93-322

The contention therefore is that the commission erred and that Plaintiff should be allowed her claim, As it is clearly proven, And is not barred by laches -

M. G. Ely, p. g.

Emily J. Harber
vs. E. E. Brief & Peltz -
R. D. Flannery admsr et al

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon *R D Flanary administrator de bonis non*
of the estate of Joel Turner deceased, S E Turner, R W Turner
W E Turner, Elvira Turner, Jennina Turner, and Frank
Turner

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said
Court on the *1st* Monday in *September*, 189*5*, to answer a bill in Chancery,
exhibited against *them* in our said court by *Emily J Harber*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the
16th day of *July*, 189*5*, and in the *120th* year of the
Commonwealth. *A B Munsey* Clerk.

R. W. Turner Gemina Turner Frank Turner
P. C. Flanary S. B. Turner

Emily J. Harber

VS. { SUPCENA
IN CHANCERY.

R. D. Flanary ^{et al} admr

M. L. Ely p. q.

To / 5th September 1895
Rules,
Circuit Court.

Executed by delivering
an office copy of the
within summons to
S. B. Turner W. E. Turner
Elida Turner R. D.
Flanary This Aug 26th 1895

Wm. M. Stoney, C.
Further executed by
delivering an office copy
of the within summons to
R. W. Turner Gemina Turner
Frank Turner This 26th day of
August 1895 J. M. Weston, D. S.
for Wm. R. Weston S. L. C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

We Command you, That you summon *S. E. Turner, R. W. Turner,
W. E. Turner, Eliza Turner, Jemima Daniels and
Frank Turner,*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held
for the said Court on the *3rd* Monday in *May*, 189 *7*, to answer *an amended*
bill in Chancery, exhibited against *them* in our said court by
Emily J. Harber

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-
house, the *20th* day of *April*, 189 *7*, and in the
12 *1st* year of the Commonwealth.

A. B. Munsey Clerk.

Rebecca, C. Turner

Emily J. Harber
SUPENA.

vs.
IN CHANCERY.
S. C. Turner et al

M. G. Ely p. q.

To 2nd May Rules.

CIRCUIT COURT.

Executed by delivering
an office copy of the
within summons to S. C.
Turner, R. W. Turner, W. C.
Turner, Eliza Turner,
Jemima Daniel, Frank
Turner, this May 4 - 1897.
J. M. Weston S. L. C.
W. P. Weston S. L. C.